

REMARKS

Claims 33-61 are pending in the application.

Claims 33-55 stand rejected under 35 USC 112, second paragraph, because in claims 33 and 45 the language “along an entirety of said thickness” is believed to be vague and indefinite. Further in the same claims the language the limitation “central axis” is not believed to refer a particular axis, as the examiner indicates the numerous central axes pass through the center of a respective hole. While the applicant believes the claims are definite as presented, claims 33 and 45 have been amended to replace the objected to language with the phrase “longitudinal centerline.” Each hole has only a single longitudinal centerline and that only a single axis passes through such longitudinal centerline. Therefore, it is submitted that the amendment overcomes the rejection.

Claims 33-36, 38, 39, 45-47, 49, 50, 57 and 60 stand rejected under 35 USC 102(b) as anticipated by Esser. The remaining claims stand rejected as obvious over Esser in view of Pawluk or Talos (and/or Boucher) or Bieri or Tellman. In the Response to Arguments section, the Examiner has suggested reciting “structural relationship; i.e., position of the holes in the first plurality with respect to the holes in the second plurality to overcome the rejections over Esser.”

In view of the above, it is submitted that the amendment to the claims overcoming the § 112 rejection as well as other amendments clarifying the structural relationship of the holes and further defining the individual axes overcomes the rejections over the prior art. The term “central axis” has been particularly clarified so that it is *limited by the structure of the plate* to a single specific orientation that cannot be ‘chosen’. For each claim, one, and only one,

orientation for a central axis is clearly provided, without permitting a reading of the claim that could allow an interpretation where the central axes may be selectively oriented in a user-selected manner which may read on Esser. In Esser, the plate has a thickness, the holes have a length through that thickness, and there will be a single longitudinal centerline through each such hole, with inherently a single axis along such centerline. However, Esser fails to provide any teaching or suggestion that (i) the central axes (as defined in overcoming the § 112 rejection) of a first plurality of holes alternate in an interleaved arrangement with the central axes of the and second pluralities second holes below a bone contacting surface of the head portion the plate and within the distal radius (claims 33 and 56-57), or (ii) the first holes are provided on a proximal side of a plane, the second holes are provided on a distal side of the plane, and the central axes (as defined above) of the first and second holes extend through the plane below the bone contacting surface of the distal head portion (claims 45 and 59-61). Claim 58 is similar to claim 33 but requires first and second plurality of pegs that extend along the defined axes and which are interleaved.

In Esser there is no discussion as to the orientation of the hole axes; only that “head portion 144 provides a plurality of locations for receiving bone screws, [and] multiple smaller bone fractures may be fixed by these bone screws and more fixation screws can be used at the utmost distal portion of the distal radius.” (col. 11, lines 9-14). Clearly, the surgeon is intended to determine through holes to insert compression screws and at which orientation through the holes the compression screws should be inserted to attach to the smaller bone fractures. In the present system, a specific pre-set arrangement of orientations for the pegs (alternating interleaving or proximally-distally displaced sets passing through a common plane) along the

central axes is provided to the plate, in advance of analyzing the fracture. This is not taught or suggested by Esser.

With respect to newly added claim 62, the prior art fails to teach a plate in which all the central axes (as now defined), of a proximal first plurality of holes project distally relative to a distal second plurality of holes in a direction facing away from a bone contacting surface of a head portion of the plate.

The remaining dependent claims are allowable for the reasons discussed above.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David S. Jacobson', is written over a horizontal line.

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